

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE CABALLERO, *et al.*,

No. C-13-3178 EMC

Plaintiffs,

v.

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS; AND ORDER
TO SHOW CAUSE RE CONTEMPT**

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK AS
SUCCESSOR TO JPMORGAN CHASE
BANK N.A. AS TRUSTEE FOR HOLDERS
OF SAMI II TRUST 2006-AR7, *et al.*,

(Docket No. 10)

Defendant.

On May 31, 2013, Plaintiffs Jose Caballero and Angelica Caballero, represented by attorney, Linda Z. Voss, filed in San Mateo County Superior Court a complaint against Defendant, The Bank of New York Mellon. Defendant removed this action to the Northern District, and on July 17, 2013, filed a Motion to Dismiss Plaintiffs' Complaint (the "Motion"). The hearing was set for September 26, 2013. Plaintiffs did not file an opposition or statement of non-opposition by the filing deadlines set forth in Local Rule 7-3.

It then came to the Court's attention that on June 3, 2013 Judge Alsup of the Northern District suspended Counsel Voss from practice in the Northern District on an interim basis pursuant to Local Rule 11-7(b)(1) and issued an order to show cause why a suspension should not be entered. *See In the Matter of Linda Z. Voss*, 3:13-mc-80120-WHA, Docket No. 1. Counsel did not respond. On July 8, 2013, Judge Alsup entered an order of suspension. *See id.* at Docket No. 3. Counsel failed to provide the Court in this action with notice of her suspension.

On September 3, 2013, the Court issued an order (the “Order”), ordering Counsel Voss to notify Plaintiffs that she has been suspended from practice before the Court and to serve on Plaintiffs a copy of both Defendant’s Motion to Dismiss and the Order. *See* Docket No. 22. Counsel was also directed to provide the Court with Plaintiffs’ contact information. The Court gave Counsel seven days to file with the Court a declaration that she complied with the Order. The Order stayed the Motion to determine whether Plaintiffs would be allowed to file an opposition.

Counsel Voss has failed to comply with the Order. Nor has Counsel otherwise contacted the Court. In other cases in the Northern District, Counsel apparently failed to notify the presiding courts of her suspension and disregarded orders to show cause for failure to prosecute. *See, e.g., Flores v. Wells Fargo Bank, N.A.*, 3:13-cv-02410-JSC; *Pagtalunan v. E Trade Bank*, 4:13-cv-1335-PJH; *Granite Ranch Opportunities, LLC v. Hecker*, 3:13-cv-02966-WHO.

Counsel Voss is **ORDERED TO APPEAR AND SHOW CAUSE** on October 17, 2013 at 1:30 p.m., Courtroom 5, 17th Floor, 450 Golden Gate Avenue in San Francisco why the Court should not hold Counsel in contempt for failure to comply with the Court’s Order. Counsel shall also show cause why the Court should not refer her to the California State Bar for failure to notify the relevant courts and her clients of her suspension, and to take steps to ensure her clients are adequately represented by counsel.¹

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¹ On September 23, 2013, Judge Corley referred Voss to the State Bar. *See Flores v. Wells Fargo Bank, N.A.*, 3:13-cv-02410-JSC (Docket No. 15) (“Given Counsel Voss’s repeated failures to comply with this Court’s Orders and her apparent failure to comply with her professional and ethical responsibilities to provide competent representation to her clients, and keep her clients informed about significant developments in this and likely other actions, the Court hereby refers Counsel Linda Z. Voss, California State Bar No. 111434, to the State Bar of California.”).

1 In light of the above, Defendant's Motion to Dismiss is **GRANTED** and the case is
2 dismissed without prejudice.

3 This order disposes of Docket No. 10.

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5 IT IS SO ORDERED.

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7 Dated: September 30, 2013

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10 EDWARD M. CHEN
11 United States District Judge
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